

REMARKS

Claims 1-21 are pending in the present application. In the Office Action mailed March 5, 2007, the Examiner rejected claims 1-21 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of Zhou et al. (USP 6,967,549).

The Examiner states that Applicant's last response is "mute in view of the new ground(s) of rejection." Applicant respectfully disagrees in that Applicant's last response placed this case in condition for allowance. That is, the Examiner had already indicated that claims 10-21 were in condition for allowance and Applicant's explanation regarding claim 1 eliminated the pending rejection thereto. Now, in the Action mailed March 5, 2007, the Examiner alleges a double patenting rejection, but does not elaborate as to which claims are believed to be conflicting. MPEP §804(II)B.1. states unequivocally that:

Any obviousness-type double patenting rejection should make clear:

(A) The differences between the inventions defined by the conflicting claims - a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue >is anticipated by, or< would have been an obvious variation of >,< the invention defined in a claim in the patent.

In this case, the Examiner has not set forth a comparison of any of the claims of the application and patent, nor has provided any reasons why one of ordinary skill in the art would conclude that the invention, as claimed, would be an obvious variation of any of the patented claims. The Examiner merely alleged that because claim 1 claims a contactor assembly with a controller it is not patentably distinct from the claim controller in the application. This is insufficient. The Examiner must compare claims and follow the directive set forth above. Applicant believes the Examiner cannot show double patenting as the claims in this application refer to closing of contactors (claim 1); engaging contacts (claim 10); and transmitting "close" signals; whereas the claims of the 6,967,549 patent all generally refer to the opening of contacts. Comparing the claims clearly shows that there is no obviousness-type double patenting between the pending claims and USP 6,967,549.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is still in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-21.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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¹The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2623. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2623. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2623. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 50-2623.